

**To:** Baptist, Erik[baptist.erik@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]  
**Cc:** Grant, Brian[Grant.Brian@epa.gov]; Celeste, Laurel[celeste.laurel@epa.gov]  
**From:** Mclean, Kevin  
**Sent:** Wed 8/2/2017 10:01:37 PM  
**Subject:** RE: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

# Ex. 5 - Attorney Client

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 5:53 PM  
**To:** Beck, Nancy <Beck.Nancy@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>  
**Subject:** RE: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

# Ex. 5 - Attorney Client

## Erik Baptist

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

## Ex. 6 - Personal Privacy

**From:** Beck, Nancy  
**Sent:** Wednesday, August 2, 2017 5:46 PM  
**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>; Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>  
**Subject:** RE: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

## Ex. 5 - Deliberative Process

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Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

Ex. 6 - Personal Privacy

**From:** Baptist, Erik  
**Sent:** Wednesday, August 2, 2017 5:44 PM  
**To:** Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>; Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>  
**Subject:** RE: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

## Ex. 5 - Attorney Client

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

**Ex. 6 - Personal Privacy**

**From:** Beck, Nancy

**Sent:** Friday, July 28, 2017 4:50 PM

**To:** Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>; Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Subject:** RE: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

## **Ex. 5 - Deliberative Process**

Thanks.

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Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

**Ex. 6 - Personal Privacy**

**From:** Mclean, Kevin

**Sent:** Friday, July 28, 2017 3:57 PM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>; Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>

**Subject:** Fw: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

# **Ex. 5 - Deliberative Process**

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**From:** Strauss, Linda  
**Sent:** Friday, July 28, 2017 2:46 PM  
**To:** Jones, Enesta; Daguiard, Robert; Mclean, Kevin; Dynner, Mark  
**Cc:** Pierce, Alison; Blair, Susanna; Schmit, Ryan  
**Subject:** FW: OGC, Question #1 Severability Clause - RE: LINDA/OPPT: Interview request + separate fact checking request

**Kevin and Mark,**

# **Ex. 5 - Deliberative Process**

# Ex. 5 - Attorney Client

**From:** Strauss, Linda  
**Sent:** Friday, July 28, 2017 10:25 AM  
**To:** Jones, Enesta <[Jones.Enesta@epa.gov](mailto:Jones.Enesta@epa.gov)>; Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>; Dyner, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>  
**Cc:** Daguiard, Robert <[Daguiard.Robert@epa.gov](mailto:Daguiard.Robert@epa.gov)>  
**Subject:** OGC, Question #2 Due today -- RE: LINDA/OPPT: Interview request + separate fact checking request

# Ex. 5 - Attorney Client

## #2. Fact Checking request

A 2015 Yale Law Journal article called Administrative Severability Clauses said the EPA has used such clauses for the following 7 rules. I'd like to confirm that and know whether it has included such clauses in rules issued since the journal article was published (and which rules of course).

(1) National Emissions Standards for Hazardous Air Pollutants from Secondary Lead

Smelting, 40 C.F.R. pt. 63 (2014);

(2) Determination of Attainment of the 1-Hour Ozone National Ambient Air Quality Standards in the Sacramento Metro Nonattainment Area in California, 40 C.F.R. pt. 52 (2014);

(3) Nonattainment New Source Review (NSR), 40 C.F.R. pt. 51 (2014); Expansion of RCRA Comparable Fuel Exclusion, 40 C.F.R. pt. 261 (2014);

(4) Administrative Stay of Clean Air Interstate Rule for Minnesota; Administrative Stay of Federal Implementation Plan To Reduce Interstate Transport of Fine Particulate Matter and Ozone for Minnesota, 40 C.F.R. pts. 51, 52 (2014);

(5) Consolidated Federal Air Rule (CAR): Synthetic Organic Chemical Manufacturing Industry, 40 C.F.R. pts. 60, 61, 63, 65 (2014);

(6) Public Health and Environmental Radiation Protection Standards for Yucca Mountain, NV, 40 C.F.R. pt. 197 (2014);

(7) Regulation of Fuels and Fuel Additives: Modifications to Reformulated Gasoline Covered Area Provisions, 40 C.F.R. pt. 80 (2014).

Deadline: Friday, July 28.

**From:** Jones, Enesta

**Sent:** Friday, July 28, 2017 10:10 AM

**To:** Strauss, Linda <[Strauss.Linda@epa.gov](mailto:Strauss.Linda@epa.gov)>

**Subject:** Re: LINDA/OPPT: Interview request + separate fact checking request

# Ex. 5 - Deliberative Process

**Enesta Jones**

U.S. EPA

Office of Media Relations

## Ex. 6 - Personal Privacy

**"The root of all joy is gratefulness."**

On Jul 28, 2017, at 10:07 AM, Strauss, Linda <[Strauss.Linda@epa.gov](mailto:Strauss.Linda@epa.gov)> wrote:

Hi Enesta, spoke to Nancy Beck about this this morning. We are still waiting for OGC to weigh in on who from their shop is best.

See below.

Linda

**From:** Strauss, Linda

**Sent:** Thursday, July 27, 2017 1:34 PM

**To:** Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>

**Cc:** Daguiard, Robert <[Daguiard.Robert@epa.gov](mailto:Daguiard.Robert@epa.gov)>

**Subject:** FW: LINDA/OPPT: Interview request + separate fact checking request

Just let us know your thoughts, Kevin, on who would provide the best interview.  
Thanks.

Adding OPA.

Linda

**From:** Strauss, Linda  
**Sent:** Thursday, July 27, 2017 11:06 AM  
**To:** Morris, Jeff <[Morris.Jeff@epa.gov](mailto:Morris.Jeff@epa.gov)>; Cleland-Hamnett, Wendy <[Cleland-Hamnett.Wendy@epa.gov](mailto:Cleland-Hamnett.Wendy@epa.gov)>; Wise, Louise <[Wise.Louise@epa.gov](mailto:Wise.Louise@epa.gov)>; Beck, Nancy <[beck.nancy@epa.gov](mailto:beck.nancy@epa.gov)>  
**Cc:** Pierce, Alison <[Pierce.Alison@epa.gov](mailto:Pierce.Alison@epa.gov)>; Blair, Susanna <[Blair.Susanna@epa.gov](mailto:Blair.Susanna@epa.gov)>; Dunton, Cheryl <[Dunton.Cheryl@epa.gov](mailto:Dunton.Cheryl@epa.gov)>; Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>  
**Subject:** RE: LINDA/OPPT: Interview request + separate fact checking request

Thanks very much. Kevin, can you let us know?

Linda

**From:** Morris, Jeff  
**Sent:** Thursday, July 27, 2017 11:05 AM  
**To:** Strauss, Linda <[Strauss.Linda@epa.gov](mailto:Strauss.Linda@epa.gov)>; Cleland-Hamnett, Wendy <[Cleland-Hamnett.Wendy@epa.gov](mailto:Cleland-Hamnett.Wendy@epa.gov)>; Wise, Louise <[Wise.Louise@epa.gov](mailto:Wise.Louise@epa.gov)>; Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>  
**Cc:** Pierce, Alison <[Pierce.Alison@epa.gov](mailto:Pierce.Alison@epa.gov)>; Blair, Susanna <[Blair.Susanna@epa.gov](mailto:Blair.Susanna@epa.gov)>; Dunton, Cheryl <[Dunton.Cheryl@epa.gov](mailto:Dunton.Cheryl@epa.gov)>; Mclean, Kevin <[Mclean.Kevin@epa.gov](mailto:Mclean.Kevin@epa.gov)>  
**Subject:** RE: LINDA/OPPT: Interview request + separate fact checking request

## Ex. 5 - Deliberative Process

**From:** Strauss, Linda



**Sent:** Thursday, July 27, 2017 10:46 AM

**To:** Morris, Jeff <[Morris.Jeff@epa.gov](mailto:Morris.Jeff@epa.gov)>; Cleland-Hamnett, Wendy <[Cleland-Hamnett.Wendy@epa.gov](mailto:Cleland-Hamnett.Wendy@epa.gov)>; Wise, Louise <[Wise.Louise@epa.gov](mailto:Wise.Louise@epa.gov)>; Beck, Nancy <[Beck.Nancy@epa.gov](mailto:Beck.Nancy@epa.gov)>

**Cc:** Pierce, Alison <[Pierce.Alison@epa.gov](mailto:Pierce.Alison@epa.gov)>; Blair, Susanna <[Blair.Susanna@epa.gov](mailto:Blair.Susanna@epa.gov)>; Dunton, Cheryl <[Dunton.Cheryl@epa.gov](mailto:Dunton.Cheryl@epa.gov)>; Dyer, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>

**Subject:** RE: LINDA/OPPT: Interview request + separate fact checking request

## Ex. 5 - Deliberative Process

Need your advice.

Linda

**From:** Strauss, Linda

**Sent:** Tuesday, July 25, 2017 2:16 PM

**To:** Morris, Jeff <[Morris.Jeff@epa.gov](mailto:Morris.Jeff@epa.gov)>; Cleland-Hamnett, Wendy <[Cleland-Hamnett.Wendy@epa.gov](mailto:Cleland-Hamnett.Wendy@epa.gov)>; Wise, Louise <[Wise.Louise@epa.gov](mailto:Wise.Louise@epa.gov)>; Beck, Nancy <[beck.nancy@epa.gov](mailto:beck.nancy@epa.gov)>

**Cc:** Pierce, Alison <[Pierce.Alison@epa.gov](mailto:Pierce.Alison@epa.gov)>; Blair, Susanna <[Blair.Susanna@epa.gov](mailto:Blair.Susanna@epa.gov)>; Dunton, Cheryl <[Dunton.Cheryl@epa.gov](mailto:Dunton.Cheryl@epa.gov)>; Dyer, Mark <[dyner.mark@epa.gov](mailto:dyner.mark@epa.gov)>

**Subject:** FW: LINDA/OPPT: Interview request + separate fact checking request

Awareness that this has come in and in case you want to add to OPPT General agenda.

**From:** Daguillard, Robert  
**Sent:** Tuesday, July 25, 2017 1:48 PM  
**To:** Strauss, Linda <[Strauss.Linda@epa.gov](mailto:Strauss.Linda@epa.gov)>; Dunton, Cheryl <[Dunton.Cheryl@epa.gov](mailto:Dunton.Cheryl@epa.gov)>; Pierce, Alison <[Pierce.Alison@epa.gov](mailto:Pierce.Alison@epa.gov)>  
**Subject:** LINDA/OPPT: Interview request + separate fact checking request

Hey guys,

## Ex. 5 - Deliberative Process

Happy to discuss, if/when you want to do a conference call.

**From:** [prizzuto@bna.com](mailto:prizzuto@bna.com)  
**Sent:** Tuesday, July 25, 2017 1:37 PM  
**To:** Press <[Press@epa.gov](mailto:Press@epa.gov)>  
**Subject:** Interview request + separate fact checking request

### 1. Interview request

I would like to interview Carol Ann Siciliano, an EPA attorney, or one of her colleagues regarding the EPA's recent inclusion of what's called a "severability" clause in its recent chemical prioritization and chemical risk evaluation rules. I've been told she's the EPA counsel with the most familiarity of the severability clause having attended an Administrative Conference of the U.S. workshop on the topic and other involvement.

I'd like to discuss the pros and cons of including severability clauses in final rules and what the EPA hopes to accomplish. I want this to be an interview not emailed questions,

because email is not an effective communication tool for learning, seeking elaboration, seeking clarity, etc.

Deadline: I would like interview Ms. Siciliano this week or the week of July 31.

## 2. Fact Checking request

A 2015 Yale Law Journal article called Administrative Severability Clauses said the EPA has used such clauses for the following 7 rules. I'd like to confirm that and know whether it has included such clauses in rules issued since the journal article was published (and which rules of course).

(1) National Emissions Standards for Hazardous Air Pollutants from Secondary Lead

Smelting, 40 C.F.R. pt. 63 (2014);

(2) Determination of Attainment of the 1-Hour Ozone National Ambient Air Quality Standards

in the Sacramento Metro Nonattainment Area in California, 40 C.F.R. pt. 52 (2014);

(3) Nonattainment New Source Review (NSR), 40 C.F.R. pt. 51 (2014); Expansion of

RCRA Comparable Fuel Exclusion, 40 C.F.R. pt. 261 (2014);

(4) Administrative Stay of Clean Air Interstate Rule for Minnesota; Administrative Stay of

Federal Implementation Plan To Reduce Interstate Transport of Fine Particulate Matter and

Ozone for Minnesota, 40 C.F.R. pts. 51, 52 (2014);

(5) Consolidated Federal Air Rule (CAR): Synthetic Organic Chemical Manufacturing Industry,

40 C.F.R. pts. 60, 61, 63, 65 (2014);

(6) Public Health and Environmental Radiation Protection Standards for Yucca Mountain, NV, 40 C.F.R. pt. 197 (2014);

(7) Regulation of Fuels and Fuel Additives: Modifications to Reformulated Gasoline Covered Area Provisions, 40 C.F.R. pt. 80 (2014).

Deadline: Friday, July 28.

Pat

[illegible]

## Pat Rizzuto

Chemicals Reporter

**Bloomberg BNA, Inc.**